

Globalization of Human Rights in a Multicultural World: Universalism versus Cultural Relativism

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What are Human Rights?

- Fundamental entitlements that inherently and self-evidently pertain to individuals as human beings because they existed in “the state of nature” before humankind entered civil society
- Developed mainly from the “Social Contract” theories of Western philosophers: John Locke, Jean-Jacques Rousseau, etc.

Human Rights in the United Nations: Post World War 11 (1945)

- 2008 is unique in international human rights discourse because it marks the 60th anniversary of the Universal Declaration of Human Rights (UDHR) which was adopted by the United Nations General Assembly in 1948.
- 48 countries voted in favour of the UDHR, and 8 countries – Saudi Arabia, South Africa, former Soviet Union and four of its allies in Eastern Europe – abstained from the vote.
- UDHR is a “Declaration” of persuasive authority that led to the development of subsequent human rights treaties.
- The UDHR is not legally binding but its provisions have high moral authority today with over 190 countries as member states of the United Nations.

Overview of International Human Rights Treaty Provisions on Cultural Practices

- UDHR covers both “*civil and political rights*” such as the rights to life, liberty, freedom from torture, inhuman and degrading punishment, freedom of religion, conscience, movement, etc; and,
- *Social, economic and cultural rights* such as education, food, clothing, social security, housing, health, etc.
- Article 27(1) of the UDHR provides that “everyone has the right freely to participate in the cultural life of the community.”
- UDHR provided the legal basis within the UN and other international forums for the development of legally binding treaties of a range of human rights issues: civil and political rights, social, economic and cultural rights, discrimination against women, children, etc.

International Human Rights Treaty

Provisions on Cultural Practices

- In 1966, 2 covenants were adopted: the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Article 27 of the ICCPR provides: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language”
- Article 15(1)(a) ICESCR “States Parties to the present Covenant recognize the right of everyone to take part in cultural life”.
- In 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the United Nations General Assembly. Article 2 of CEDAW, “States Parties shall pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake, among others, to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women”

Universalism of Human Right to Cultural Life?

- UDHR + the other international human rights conventions that provide for a right to “cultural life” imply that human rights are universal
- Because we live in a multicultural world, how would the tension between cultures and basic human rights be resolved?
- Nation-States hide under the cover of state sovereignty, and preservation of cultural values to violate the basic rights of their citizens
- Examples of this abound in the Taliban treatment of women in Afghanistan and other notorious instances around the world

Universality

- Are human rights universal?
- Cultural Relativism : each culture is unique so we cannot criticise it
 - India: “caste” system
 - Islam: women & the *hijab*: the right to marry and found a family and to freely choose one’s partner directly challenges Islamic law, which insists on the **family choice of spouse, polygamy**
 - “Asian Values” debate:
 - emphasis on the **community and societal harmony**
 - China: **economic development** is a higher goal than individual freedoms
- **Abdullahi An-Na'im** advocates a *middle way*. “rights may be made universally applicable if they draw their legitimacy from local cultural norms”
- **1993 Vienna Declaration:**
 - China, Syria and Iran challenged the idea of “universality”
 - “*the universal nature of these rights and freedoms is beyond question*”
 - the right to development as an inalienable right and an integral part of international human rights law

What is Culture?

- *“The customs, civilization, and achievements of a particular time or people”* – The Concise Oxford Dictionary

Languages of the World

- Ethnologue, an encyclopedic reference work, lists 6,912 known living languages in the world today
- A word of caution! “The number of languages may never be determined exactly. Languages are not always easily treated as discrete entities with clearly defined boundaries because they represent a continua of features extending across geographic, political and social boundaries. Not all scholars agree on the criteria that clearly distinguish "language" from "dialect" – Languages of the World <<http://www.nvtc.gov/lotw/months/november/worldlanguages.htm>>

Human Rights in a Multicultural and Multi-Linguistic World

- In a multicultural world, how can cultures compare notes?
- Are cultures mutually respectful?
- Which cultures should be superior: European, North American (Western), Asian, African, Middle Eastern, etc?
- What is the place of “Asian values”, “African values”, “Latin American values”, etc in the era of globalization?
- How can international human rights deal with metaphors and images of the “savage”, the “barbarian”, and the “civilized” in the interaction of Western and non-Western cultures?

The Way Forward

- “The principal objective of a concerted strategy against cultural extremism, however, must not be the quick reversal of any one outbreak of racism or intolerance, but the forging of a global stance against radical cultural exceptionalism in general” – Thomas M. Franck, *Are Human Rights Universal?*
- “As the twentieth century moves to a close, there has been a gathering awareness nearly everywhere of the lines between cultures, the divisions and differences that not only allow us to discriminate one culture from another, but also to enable us see the extent to which cultures are humanly made structures of both authority and participation, benevolent in what they include, incorporate, and validate, less benevolent in what they exclude and demote” – Edward W. Said, *Culture and Imperialism*
- “It is not the state per se that is barbaric but the cultural foundation of the state. The state only becomes a vampire when “bad” culture overcomes or disallows the development of “good” culture. The real “savage,” though, is not the state but a cultural deviation from human rights. That savagery inheres in the theory and practice of the one-party state, military junta, controlled or closed state, theocracy, or even cultural practices” – Makau Mutua, *Savages, Victims and Saviors: The Metaphor of Human Rights*

A Short List for Further Reading and Research

- Abdullahi An-Na'im, "Human Rights in the Muslim World", 1990, 3 *Harvard Human Rights Journal*, 13
- Abdullahi An-Na'im, ed., *Human Rights in Cross-Cultural Perspective* (1991)
- Jack Donnelly, "Cultural Relativism and Universal Human Rights", 1984, 6 *Human Rights Quarterly*, 400
- Thomas Frank, "Are Human Rights Universal?", Jan/Feb. 2001, *Foreign Affairs*, 191
- Yash Ghai, "Human Rights and Governance: The Asia Debate", 1994, 15 *Australian Yearbook of International Law*, 1
- Bilhari Kausikan, "Asia's Different Standard", 1993, 92 *Foreign Policy*, 24
- Makau Mutua, "The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties", 1995, 35 *Virginia Journal of International Law*, 340
- Makau Mutua, "The ideology of Human Rights", 1996, 36 *Virginia Journal of International Law*, 586
- Makau Mutua, "Savages, Victims and Saviors: The Metaphor of Human Rights", 2001, *Harvard International Law Review*, 201
- Edward W. Said, *Orientalism* (New York: Vintage Books, 1978)
- Edward W. Said, *Culture and Imperialism* (New York: Vintage Books, 1994)
- Amartya Sen, *Development As Freedom* (New York: Anchor Books, 2000)

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THANK YOU!